

April 27, 2009

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **WC Docket No. 08-54**
Supplement to Pending Domestic Section 214 Application

Dear Ms. Dortch:

This letter is submitted on behalf of PTI Pacifica Inc. ("PTI Pacifica") with respect to the April 7, 2008 domestic Section 214 application in the above-referenced docket by which it seeks authority to acquire certain telecommunications assets of IT&E Overseas, Inc. ("IT&E Overseas"), including the domestic wireline subscriber base of IT&E Overseas in the Commonwealth of the Northern Marianas ("CNMI") and Guam. This letter provides responses to inquiries from the Commission's Wireline Competition Bureau staff regarding the competitive effects of the proposed transaction on U.S. domestic long distance services.

Request for Confidentiality

Pursuant to Section 0.459 of the Commission's rules, PTI Pacifica requests that the unredacted version of the attached letter and tables be treated as confidential and not be made available for public inspection. The unredacted version of this letter is forwarded directly to the Commission staff members working on the above-referenced application. The redacted version is filed electronically in the docket and is served on the parties to the proceeding.

The redacted information is comprised of market share information and proprietary commercial data of PTI Pacifica, IT&E Overseas and other carriers that are not typically made publicly available in FCC proceedings. Commercial wireless and wireline services are subject to significant competition, and disclosure of market share information could result in substantial competitive harm to the market participants. The specific redacted market share data in this filing have not been disclosed to the public or any third parties. Given these circumstances, the redacted information should not be made available for public inspection.

Overview

As discussed below, the proposed transaction will not adversely affect competition in long distance services. The Commission has long recognized that the domestic long distance

Ms. Marlene H. Dortch

April 27, 2009

Page 2

market is highly competitive, having classified AT&T as non-dominant almost 15 years ago, despite AT&T's then-60 percent share of the overall market.¹ The long distance industry has undergone profound changes since that time, including the proliferation of wireless plans with no extra charge for long distance and the introduction of VoIP voice services with low-cost or no-cost long distance. Very low cost prepaid calling options also are now readily available in retail stores or on the Internet. Thus, the U.S. domestic long distance market is, by any measure, intensely competitive; and in this respect the competitive landscape in CNMI and Guam is no different. For example, facilities-based wireless carriers Guam Cellular d/b/a Saipancell and Choice Phone d/b/a I-Connect offer rate plans with long distance service to the U.S. mainland and other destinations for free.² Facilities-based wireline competitors GTA TeleGuam and Saipancell each market pre-paid calling cards that offer service to the U.S. mainland for four cents per minute.³ With these numerous low-cost facilities-based long distance options available in CNMI and Guam, and given the absence of barriers to entry, the proposed combination of PTI Pacifica and IT&E Overseas cannot possibly be considered to have an adverse effect on the domestic long distance market.

CNMI Facilities-Based Carriers

With this background, PTI Pacifica responds to the Bureau's request to identify which of the long distance competitors listed in the attachment to the April 22, 2008 supplement submitted in this docket are facilities-based carriers. The facilities-based carriers competing in CNMI identified in the April 22, 2008 attachment are Choice Phone (d/b/a I-Connect), MCI/WorldCom/Verizon, TelePacific Network Inc. (which we understand is now under common control with TeleGuam Holdings, the parent company of the incumbent local exchange carrier in Guam, GTA TeleGuam) and Guam Cellular (d/b/a Saipancell). We note, however, that non-facilities-based long distance carriers also are a significant competitive force in CNMI. They offer their own pre-paid calling cards and operate local calling centers that resell either private lines, wireline switched service, wireless and/or VoIP to provide low-cost long distance options to CNMI residents. In other words, consumers in CNMI have numerous competing options for making domestic long distance calls.

¹ *Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier*, 11 FCC Rcd 3271 (1995) ("AT&T Non-Dominance Order") at ¶ 7, vacated on other grounds, *AT&T v. FCC*, 978 F2d 727 (DC Cir. 1992), cert. denied, *MCI Telecommunications Corp. v. AT&T*, 509 US 913 (1993)).

² See websites checked April 23, 2009:

http://www.saipancell.com/main/index.php?pg=products_services&sub=wireless_services&sub2=rate_plans and <http://www.iconnectguam.com/>.

³ See websites checked April 23, 2009: <http://www.gta.net/residential/home-phone/long-distance/overview> and

http://www.saipancell.com/main/index.php?pg=products_services&sub=long_distance&sub2=long_distance_goprepaid_rates.

Ms. Marlene H. Dortch

April 27, 2009

Page 3

Wireline Market Share Data

The FCC staff also requested an update to a 2003 chart that was submitted in IB Docket No. 03-115 regarding wireline originating long distance market shares in CNMI (“pre-subscribed 1+” and “overall wireline”) that was referenced by the petitioners in this proceeding.⁴ First, we note that the Commission found that “market share, by itself, is not the sole determining factor of whether a firm possesses market power.”⁵ Second, the petitioners’ focus on the localized data is misplaced because the FCC almost uniformly treats long distance as a single, national market. For example, in the 1995 Order finding AT&T to be non-dominant, the FCC reiterated previous findings that: “(1) interstate, domestic, interexchange telecommunications services comprise the relevant product market, and (2) the United States (including Alaska, Hawaii, Puerto Rico, U.S. Virgin Islands, and other U.S. off-shore points) comprises the relevant geographic market for this product, with no relevant submarkets.”⁶

The Commission likewise considered the nationwide long distance market as the relevant market in the proceeding in which it analyzed the proposed combination of WorldCom and MCI, two of the nation’s largest long-distance carriers that competed head-to-head in markets throughout the country. The FCC stated that “[c]ontinuing the method of analysis we followed in the *LEC Regulatory Treatment Order* and the *Bell Atlantic/NYNEX Order*, we treat the relevant geographic market as a single national market.”⁷ Thus, the Commission’s competitive analysis typically does not address market-share data on a state-by-state or other localized area basis.⁸ This is not to say that the Commission cannot consider smaller geographic areas,⁹ but to our knowledge the FCC has not conducted such a granular analysis outside of a Bell Operating Company merger.

1+ Market Share Is Misleading as PIC Calls in CNMI Are Less than 11 Percent of Overall Wireline Switched Access Long Distance Calls

In any event, the Bureau has requested updated wireline long distance minutes of use (“MOU”) market share data for CNMI. The updated MOU data are provided in Confidential

⁴ See Petition To Condition, WC Docket No. 08-54, May 12, 2008, at 6-7.

⁵ *AT&T Non-Dominance Order*, 11 FCC Rcd 3271 ¶ 68 (1995). See also *SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, 20 FCC Rcd 18290 (2005) (“*SBC Order*”) at ¶ 103.

⁶ *AT&T Non-Dominance Order* at ¶ 7 (citing *Fourth Report and Order*, 95 FCC 2d 554, 563 (1983)).

⁷ *Application of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, 13 FCC Rcd 18025 (1998) (“*MCI-WorldCom Order*”) at ¶ 30 (citations omitted).

⁸ Indeed the Commission expressly rejected a request from one of the petitioners in the MCI-WorldCom proceeding to use LATAs as the appropriate geographic market for purposes of competitive analysis. *Id.* at ¶ 31 n. 77.

⁹ See *SBC Order* at ¶ 98.

Ms. Marlene H. Dortch

April 27, 2009

Page 4

Table 1 attached to this letter, with data on the number of PIC residential and enterprise subscribers in CNMI provided in Confidential Table 2.¹⁰ The tables indicate that the combined companies would have a substantial share of the 1+ market in CNMI.¹¹

As the Commission has previously found, however, the market share number for 1+ service does not accurately describe the competitive landscape for long distance services. This is because statistics applicable only to 1+ calling are likely to overstate, often substantially, overall market shares (and therefore understate the level of competition).¹² The Commission noted in 2007 that, “[i]n recent years, . . . an increasing number of customers are choosing to have no PIC . . . More importantly, this [reliance on a 1+ calling] approach to calculating market shares fails to take into account possible usage substitution between wireless and wireline long distance services (for customers that subscribe to both wireless and wireline telephone services)”¹³ Statistics on 1+ market share also ignore the numerous other low cost competitive alternatives referenced earlier. In fact, 1+ market share data are particularly misleading for assessing the competitiveness of the CNMI market because in CNMI minutes of use for 1+ calling account for only 10.8 percent of the overall *wireline* switched access long distance market. Moreover, as discussed below, when wireless and Internet-based long distance calls are factored in, the percentage of the long distance market represented by 1+ calls is much lower.¹⁴

¹⁰ The percentage of 1+ residential customers in CNMI that would be served by the combined companies is higher than for enterprise customers. See Confidential Table 2. This is largely attributable to the fact that the major long distance carriers have exited the residential market due to price competition from alternative providers.

¹¹ PTI Pacifica cannot provide MOU data for Guam (accessible only to the ILEC there). Using the number of PIC subscribers as a proxy, however, indicates that adding PTI Pacifica’s PIC customers does not appreciably add (only REDACTED) to the IT&E Overseas market share in Guam. See Confidential Table 3.

¹² See Section 272(f)(1) *Sunset of the BOC Separate Affiliate and Related Requirements*, 22 FCC Rcd 16440 (2007), at ¶ 41.

¹³ *Id.* The unique demographics of the CNMI illustrate why customers choose not to have a PIC. With many extended families living under one roof and using one residential line, payment responsibility issues may arise; to address this many households choose not to have 1+ dialing. Similarly, non-resident workers living in barracks often rely on calling cards and calling centers. Additionally, callers whose home countries are accessible only by satellite, and hence more expensive to call, prefer to use pre-paid calling cards to ensure that they do not run up a higher than expected bill.

¹⁴ Should the Commission nonetheless focus on the 1+ market share on a stand-alone basis, we note that in the MCI-WorldCom transaction, the FCC expressly addressed and permitted the combined entities to have a 100% market share of certain international routes, finding that, as in the instant case, there are no barriers to entry. *MCI-WorldCom Order* at ¶¶ 133-139.

Ms. Marlene H. Dortch

April 27, 2009

Page 5

Market Share Data on Overall Wireline Minutes of Use Exclude the Significant Amount of Wireless and VoIP Long Distance Calling

The updated wireline data in Confidential Table 1 indicate that the combined companies would have a significantly lower share of the *overall* market for originating wireline long distance switched access, which includes switched access minutes for pre-paid cards and dial-around carrier traffic, than of the 1+ market. This lower overall wireline market share, when compared with the share percentage held by the much larger and ubiquitous AT&T when it was found non-dominant in 1995, should render moot any concern about the dominance of the combined companies.

More significantly, however, changes in the marketplace since 1995 demonstrate that the data in the attached tables significantly overstate the combined companies' share of the overall long distance market because Confidential Table 1 excludes the long distance MOU of the competing wireless carriers in CNMI. As mentioned previously, both Saipancell and I-Connect offer wireless plans with free long distance; so it can be safely assumed that each carrier has a significant amount of wireless long distance traffic. This wireless traffic is not reflected in Confidential Table 1, and PTI Pacifica cannot estimate its amount.¹⁵ Wireless competition will continue to intensify as the FCC's recently completed 700 MHz and AWS auctions awarded spectrum in CNMI and Guam to both existing wireless competitors and new entrants in the market, with strict build-out requirements attached.¹⁶ The data also does not capture MOU of VoIP providers. Considering that the number of CNMI wireless subscribers is approximately double the number of wireline loops,¹⁷ and that the popularity of VoIP service continues to accelerate, it is reasonable to estimate that the overall wireline market share data in Confidential Table 1 excludes a very sizeable portion of overall CNMI long distance calling.

The significance of the uncounted wireless and VoIP long distance traffic is underscored by the fact that, although the updated chart indicates that the combined companies will have a significant wireline market share, PTI Pacifica's average revenue per minute for wireline long distance calls has dropped dramatically (REDACTED) since 2003, a reduction caused in large

¹⁵ A wireless domestic long distance call placed on the PTI Pacifica wireless network hits the PTI Pacifica wireless switch in CNMI and is routed to PTI Pacifica's international gateway switch in CNMI where it is routed over PTI's undersea cable to Guam, where it meets the selected transport carrier (for example, AT&T, MCI (Verizon Business), Sprint, Telecom New Zealand, KDDI, and KT Telecom) and is carried on one of several Pacific region undersea cable systems. To PTI Pacifica's knowledge, other CNMI wireless carriers, including those that offer free long distance, use similar procedures that do not touch the CNMI ILEC or count as switched access minutes in the attached chart.

¹⁶ See FCC Auction 73, Public Notice, DA 08-595, March 20, 2008 and Auction 78, Public Notice, DA 08-1953, August 25, 2008.

¹⁷ PTI Pacifica's parent company, The Micronesian Telecommunications Corporation, like other ILECs has experienced a significant drop in working loops to the point that the number of CNMI wireless subscribers is now approximately double the number of wireline subscribers.

WILKINSON) BARKER) KNAUER) LLP

Ms. Marlene H. Dortch

April 27, 2009

Page 6

part from the intense price competition in CNMI. Thus, consumers have benefited greatly from the continued competitiveness of the CNMI marketplace.

Conclusion

Data on 1+ or other wireline long distance market shares present only a small part of the picture of the overall CNMI long distance market. These numbers do not accurately reflect the state of competition in CNMI or Guam, as the absence of barriers to entry and the existence of numerous low-cost providers will continue to constrain the ability of the combined companies to act anti-competitively. To allay any concerns, however, that an increased 1+ market share would allow PTI Pacifica to raise its rates above competitive levels, PTI Pacifica pledges that it will not raise its 1+ wireline rates for three years from grant of the pending application.

Please contact the undersigned if you have any questions.

Respectfully submitted,

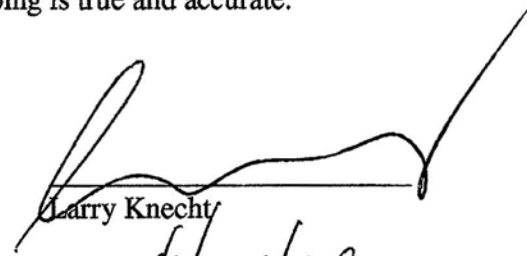
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cc: Jodie May, Wireline Competition Bureau
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Declaration

I, Larry Knecht, am Executive Vice President of PTI Pacifica Inc. ("PTI Pacifica"). I have reviewed the letter to be submitted as a Supplement to Pending Domestic Section 214 Application in WC Docket No. 08-54 and verify the truth and accuracy of the factual representations stated therein.

I declare under penalty of perjury that the foregoing is true and accurate.



Larry Knecht

Date

4/27/09

REDACTED TABLE 1

CNMI WIRELINE SWITCHED ACCESS MINUTES OF USE (DOES NOT INCLUDE WIRELESS OR VoIP)

	PIC Originating MOUs	Market Share for PIC Originating Wireline ¹ Minutes	All Originating Wireline MOUs	Market Share for All Originating Wireline Access Minutes
Saipancell	[Redacted]	[Redacted]	[Redacted]	[Redacted]
PTI Pacifica Inc.	[Redacted]	[Redacted]	[Redacted]	[Redacted]
IT&E Overseas, Inc.	[Redacted]	[Redacted]	[Redacted]	[Redacted]
WorldCom	[Redacted]	[Redacted]	[Redacted]	[Redacted]
TelePacific Network, Inc.	[Redacted]	[Redacted]	[Redacted]	[Redacted]
AT&T 1-800 ²	[Redacted]	[Redacted]	[Redacted]	[Redacted]
Dial-around/bypass carriers	[Redacted]	[Redacted]	[Redacted]	[Redacted]
	[Redacted]	100.00%	[Redacted]	100.00%

¹ Neither PTI Pacifica nor IT&E Overseas can provide similar MOU market share data for Guam because only the ILEC there has access to such data. As indicated in Confidential Table 3, however, the number of PTI Pacifica's pre-subscribed customers in Guam does not appreciably add to the IT&E Overseas total.

² AT&T is the carrier of record for 1-800 service for many companies such as JC Penney and Wal-Mart and has contracted with PTI Pacifica for origination.

REDACTED TABLE 2

Number and Percentage of Residential and Enterprise “1+” PIC Customers Per Carrier in CNMI

	<u>Saipancell</u>	<u>TelePacific Network Inc.</u>	<u>IT&E Overseas</u>	<u>PTI Pacifica</u>	<u>NO PIC</u>	<u>TOTAL</u>
Single-line (Residential)	[Redacted]	[Redacted]	[Redacted]	[Redacted]		[Redacted]
Multi-line (Proxy for Enterprise)	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted] ¹	[Redacted]
Total PIC Subscribers Per Carrier	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	100.00%

¹ The data do not clearly indicate in which category (residential or enterprise) to place no-PIC subscribers. For purposes of this table, they were placed in the enterprise category.

REDACTED TABLE 3

Petitioners stated that IT&E Overseas, Inc. has 54% of the pre-subscribed market in Guam.¹

IT&E Overseas, Inc. currently has [Redacted] PIC subscribers in Guam.

The total number of Guam PIC subscribers, therefore, can be approximated as [Redacted].

PTI Pacifica has [Redacted] PIC subscribers in Guam, [Redacted]% of [Redacted].

¹ *Petition to Condition*, WC Docket No. 08-54, May 12, 2008, at 5 n. 17.

CERTIFICATE OF SERVICE

I, LaVon Nickens, do hereby certify that on this 27TH day of April 2009, a copy of the foregoing Letter was served via email upon the following:

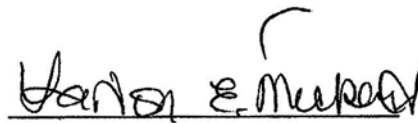
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